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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BUCHANAN, CHRISTOPHER R

ART UNIT PAPER NUMBER

3627

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,255

Applicant(s)

HAMILTON, ROBERT DOUGLAS

Examiner

Christopher R Buchanan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mourad et al. in view of Baker et al.

With regard to claims 1 and 27, Mourad discloses a method and system for providing content on-demand to a customer (abstract) having a media receiver (2, Fig. 2) connected with a cable television network (4, 5) and a computing device (6) separate from the media receiver that is in communication with a data network (24, 25, 27), wherein the method includes receiving a request for a media stream from the computing device over the data network (col. 3 line 25+, col. 4 line 48+), providing the content over the cable network for receipt and presentation (see Fig. 2, col. 4 line 32+), and receiving the content over the cable network by the receiver (see Fig. 2, col. 4 line 32+). Mourad does not explicitly show a customer identification to be sent with the request and the receiver to be tuned remotely over the cable network to allow it to receive the requested content. However, it is common practice to send a user identification with all communications over a network, especially in a situation wherein the

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customer is to be charged a fee for services requested. Furthermore, it is well-known that all receivers are tunable and must be tuned to the proper frequency to enable reception of selected signals, for example, pay-per-view shows on cable TV. It would be obvious to one skilled in the art that the receiver could be tuned in a variety of manners to enable reception of requested content. With regard to claim 2, it is common practice and would be obvious to one skilled in the art to allow the customer to select a particular device for receiving content. With regard to claim 3, a distribution node on the cable network in communication with the media receiver is determined (col. 3 line 25+, see Fig. 2). With regard to claim 4, an interface to select content from a selection of content is provided to the customer (col. 4 line 6+). With regard to claims 5, 6, and 8, media and port information are identified by a frequency channel and other identifiers, which can be stored in a database (col. 4 line 19+). The content could be a video stream (abstract, well-known). With regard to claims 7, 9, and 10, sufficient bandwidth for reception of the content is determined before delivery (col. 2 line 40+). It is common practice and inherent in the invention that some indicator of bandwidth is measured and updated. With regard to claims 11 and 12, it is well-known and common practice to use Java applets for interface presentation and to provide preview data for available content. With regard to claims 13-16, the interface is an HTML page (col. 4 line 6), commands, such a pause, stop, etc., can be sent to control in-progress content (col. 4 line 34+), a media server streams content over the cable network (col. 4 line 44+). With regard to claims 17-20, it is common practice for media players to provide

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various information regarding playing content, such as, elapsed time, expiry times, time left, etc., and to prevent playing of content if any limit has been exceeded. With regard to claims 21-23, the computing device is a personal computer (col. 3 line 30+), but it would be obvious to one skilled in the art that a number of other devices could be used, such as, a cell phone or PDA. With regard to claims 24 and 25, it would be obvious to one skilled in the art that content could be received at multiple receivers (col. 3 line 19+) and that content could be presented to customers based on a variety of criteria. With regard to claim 26, it is inherent in the method and would be obvious to one skilled in the art that a computer executable stored on a computer readable medium performs the method of Mourad.

The method of Mourad differs from the instant invention in that it does not explicitly show a customer identification to be sent with the request and the receiver to be tuned remotely over the cable network to allow it to receive the requested content [claims 1 and 27].

Baker discloses a method for providing content on-demand to a customer over a network (abstract) wherein the method includes sending a customer identification with a request for content (col. 7 line 49+, col. 8 line 18+) and tuning a receiver to allow it to receive the requested content (col. 6 line 15+).

It would be obvious to one skilled in the art to modify the method of Mourad to include sending a customer identification with a request for content and tuning a receiver to allow it to receive the requested content, as taught by

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Baker, to provide a means for receiving requested content and for billing customers for services.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bush discloses a system for ordering products and making payments over a cable network. Kikinis discloses a system for viewing multimedia content broadcast over the internet and received with a tunable receiver. Trewitt et al. disclose a method that allows customers to view content and provide feedback over a network in real-time. Ellis et al. disclose a system that allows customers to view schedules of available content, to order selected content, and to view the content via a tunable receiver. Watts et al. disclose a method that allows multiple data streams to be received, stored, and viewed. Lazar et al. disclose a system that stores and transmits various information via a network.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Buchanan whose telephone number is 703-306-5782. The examiner can normally be reached on M-T 9-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 703-308-5183. The fax phone numbers for the organization where this application or proceeding is

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assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Christopher Buchanan
May 9, 2003



Kenneth R. Rice
Primary Examiner